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\*E-filed 9/29/06\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CRYPTOGRAPHY RESEARCH, INC.,

Plaintiff,

v.

VISA INTERNATIONAL SERVICE  
ASSOCIATION,

Defendant.

Case No. C 04-04143 JW (HRL)

**SUPPLEMENTAL STIPULATION AND  
~~[PROPOSED]~~ ORDER REGARDING  
CRYPTOGRAPHY RESEARCH INC.'S MOTION  
TO COMPEL VISA INTERNATIONAL TO MAKE  
WITNESSES AVAILABLE FOR DEPOSITION,  
PRODUCE DOCUMENTS, AND ANSWER  
INTERROGATORIES AND MOTION FOR  
SANCTIONS**

The Honorable Howard R. Lloyd,  
United States Magistrate Judge

1 Plaintiff Cryptography Research, Inc. ("CRI") and Defendant Visa International Service  
2 Association ("Visa") submit the following Supplemental Stipulation and Proposed Order  
3 concerning the June 22, 2006 Stipulation and Order (the "Stipulated Order") regarding CRI's  
4 Motion to Compel Visa International to Make Witnesses Available for Deposition, Produce  
5 Documents, and Answer Interrogatories and Motion for Sanctions.

#### 6 **RECITALS**

7 On June 22, 2006, the Court entered the Stipulated Order which required Visa to make  
8 witnesses available for deposition, produce documents in response to CRI's first, second, and  
9 third set of request for production of documents and things, and answer CRI's first set of  
10 interrogatories.

11 On or around August 9, 2006, Visa expressed that it would not be able to complete its  
12 production of documents responsive to CRI's first, second, and third set of requests for  
13 documents and things by September 1, 2006, the date set forth in the stipulated order, and  
14 requested an extension to complete its document production.

15 On or around August 14, 2006, Visa expressed that it would not be able to answer CRI's  
16 first set of interrogatories by August 15, 2006, the date set forth in stipulation and order, and  
17 requested an extension to answer the interrogatories.

18 Visa and CRI by and through their respective counsel have met and conferred to discuss  
19 Visa's request for an extension to complete its document production and answer interrogatories,  
20 and additional discovery issues. In view of the parties' agreements reached during these  
21 conferences, as memorialized below, CRI and Visa agree to the following Supplemental  
22 Stipulation and Order.

#### 23 **STIPULATION AND ORDER**

24 1. Visa shall have an extension until October 1, 2006 to complete its production of all  
25 non-privileged documents and things in its possession, custody, or control responsive to CRI's  
26 first, second, and third set of requests for production of documents and things. Visa's document  
27 production shall be on a rolling basis and not be "back-loaded."

28 2. CRI may amend or supplement its disclosures under Patent L.R. 3-1 at any time on

1 or before November 1, 2006. If by October 1, 2006 Visa fails to produce all documents called for  
2 in the Stipulated Order dated June 22, 2006, in addition to pursuing any other remedies including  
3 those available under Rule 37, CRI may supplement or amend its disclosures under Patent L.R. 3-  
4 1 without objection by Visa, within 30 days after the date such additional documents or things are  
5 produced and received by CRI.

6 3. The parties' will endeavor to exchange privilege logs on or before November 1,  
7 2006, or on a date mutually agreed by the parties. To the extent Visa identifies additional non-  
8 privileged documents during the creation of its privilege log, they shall be produced promptly and  
9 no later than the date of production of the privilege log.

10 4. Visa was given an extension until September 5, 2006 to answer CRI's First Set of  
11 Interrogatories.

12 5. Each party shall be granted a total of twenty (20) depositions. The three  
13 depositions taken by CRI before the June 22 Order (Messrs. Ross, Snailer, and Lee) shall not  
14 count against its total. If CRI retakes the deposition of any of these three previously deposed  
15 individuals, CRI shall not cover the same ground, except that CRI may examine any of the three  
16 witnesses as to documents produced to CRI on or after the dates of the prior depositions.

17 6. Visa has agreed to produce its 30(b)(6) witness for deposition at the Mountain  
18 View office of Fenwick & West on October 5, 2006, the specific date to be agreed to by the  
19 parties.

20 7. Visa produced Lance Johnson for deposition at the Mountain View office of  
21 Fenwick & West on September 13, 2006 commencing at 9:00 a.m.

22 8. Visa produced Kenneth Ayer for deposition at the San Francisco office of Fenwick  
23 & West on September 21, 2006 commencing at 9:00 a.m.

24 9. Visa has agreed to produce Philip Yen for deposition at the Mountain View offices  
25 of Fenwick & West on October 12, 2006 commencing at 9:00 a.m. Should any unforeseen event  
26 prevent Mr. Yen from having his deposition on this date, the parties shall meet and confer in good  
27 faith to reschedule his deposition as close to the scheduled date as reasonably as possible.

28 10. CRI may retake the depositions of Messrs. Ayer, Yen, Johnson and Visa's

1 designated 30(b)(6) witness one other time, but the total deposition time on the record for any of  
2 these witnesses shall not exceed a total of seven hours, except as provided under Fed. R. Civ. P.  
3 30(d)(2).

4 11. Visa shall pay 100 percent of the vendor costs to host Visa USA documents for  
5 CRI's review. Such payment is expressly deemed not to have waived Visa's position that it does  
6 not control Visa USA and shall not be cited by CRI in support of an argument that Visa does  
7 control Visa USA.

8 12. Except as expressly modified herein, the Stipulated Order dated June 22, 2006  
9 shall remain in effect in all other respects.

10 IT IS SO ORDERED

11 Dated: \_\_ 9/29/06 \_\_\_\_

By: 

Honorable Howard R. Lloyd  
United States Magistrate Judge

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14  
15 IT IS SO STIPULATED:

16  
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18  
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